



State of Wisconsin  
2005 - 2006 LEGISLATURE

LRB-1617/2

MGD:wlj:jf

2005 BILL

gun-free schools - fed. law  
Did I do it right?

~~ff~~ = No ff

notes from Ker. Hall?

Regen

AN ACT *to renumber and amend* 23.33 (3) (e), 29.091, 29.621 (4), 440.26 (3m)  
and 941.23; *to amend* 165.82 (1) (intro.), 165.82 (2) and 885.235 (1g) (intro.);  
and *to create* 20.455 (2) (gu), 23.33 (3) (e) 1., 23.33 (3) (e) 2., 23.33 (3) (e) 3.,  
23.33 (3) (em), 29.091 (2), 29.621 (4) (a), 29.621 (4) (b), 29.621 (4) (c), 29.621 (6),  
167.31 (4) (ar), 175.50, 440.26 (3m) (a), 440.26 (3m) (b), 941.23 (1), 941.23 (2)  
(a), 941.23 (2) (b), 941.23 (2) (c), 941.23 (3), 941.237 (3) (cr), 941.237 (3) (L),  
941.29 (11) and 948.605 (2) (c) of the statutes; **relating to:** carrying of concealed  
weapons by out-of-state and retired law enforcement officers, granting  
rule-making authority, and making an appropriation.

requires the state to permit

**Analysis by the Legislative Reference Bureau**

This bill makes certain changes in Wisconsin law to account for a federal law that provides, under certain circumstances, the right to carry concealed firearms to an individual who works as or who has retired from working as a law enforcement officer in Wisconsin or in any other state.

**Current state and federal law regarding concealed weapons**

Wisconsin law specifies that, in general, no person may go armed with a concealed firearm or any other concealed, dangerous weapon. This prohibition,

to carry a concealed firearm under  
certain circumstances

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however, does not apply to peace officers, such as local, state, tribal, or federal law enforcement officers. In addition, under *State v. Hamdan*, 2003 WI 113, 264 Wis. 2d 433, it is unconstitutional to apply this prohibition to a person carrying a concealed weapon at his or her own business when: 1) the person's interest in carrying a concealed weapon substantially outweighs the state's interest in enforcing the concealed weapons law; 2) the person has no other reasonable means to keep and handle the weapon; and 3) the person is not motivated by an unlawful purpose in concealing it. The *Hamdan* court also indicated that the constitutional right to keep and bear arms for security must permit a person to carry a concealed weapon under certain circumstances in his or her own home.

In addition, federal law prohibits the state from barring certain active duty or retired law enforcement officers from carrying concealed firearms. Under federal law, qualified law enforcement officers and qualified retired law enforcement officers who meet certain specified requirements may carry concealed firearms that have been shipped or transported in interstate or foreign commerce, regardless of any prohibition imposed under state law.

*defined*  
Federal law specifies the criteria that a person must meet to be a qualified law enforcement officer or a qualified retired law enforcement officer. To be the former, a person must: 1) be employed by a government agency; 2) be a law enforcement officer under federal law, a person authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law and having statutory powers of arrest; 3) be authorized by the agency to carry a firearm; 4) not be the subject of any disciplinary action by the agency; ~~5) meet all standards, if any, established by the agency to qualify the person on a regular basis to use a firearm;~~ ~~6) not be under the influence of alcohol or other drugs; and 7) not be prohibited under federal law from possessing a firearm.~~ For a person to be a qualified retired law enforcement officer, all of the following must apply: 1) the person retired in good standing from service with a government agency as a law enforcement officer, other than for reasons of mental instability; 2) before retirement, the person was regularly employed as a law enforcement officer for an aggregate of 15 years or more or retired after completing any applicable probationary period of service due to a service-connected disability; 3) the person has a nonforfeitable right to benefits under the agency's retirement plan; ~~4) during the most recent 12-month period, the person has met the state's standards for training and qualification for active duty law enforcement officers to carry firearms;~~ ~~5) the person is not under the influence of alcohol or other drugs; and~~ ~~6) the person is not prohibited under federal law from possessing a firearm.~~ *INS A*

*5*  
*a*  
Under federal law, if a person is a qualified law enforcement officer, the prohibition contained in Wisconsin law regarding going armed with a concealed and dangerous weapon does not apply to his or her going armed with a concealed firearm if the person carries the photo ID issued by the agency for which he or she works. If the person is a qualified retired law enforcement officer, the prohibition does not apply to his or her going armed with a concealed firearm if the person carries either: 1) a photo ID issued by the agency from which the person retired as a law enforcement officer that indicates that, within the preceding 12 months, the agency

*5 and 6)*

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has tested the person or otherwise found that he or she meets its standards for training and qualification for active duty law enforcement officers to carry the type of firearm that the qualified retired law enforcement officer is carrying concealed; or 2) both of the following: a) a photo ID issued by the agency from which the person retired as a law enforcement officer; and b) a certification issued by the state in which the person resides that indicates that, within the preceding 12 months, the state has tested the person or otherwise found that he or she meets its standards for training and qualification for active duty law enforcement officers to carry the type of firearm that the qualified retired law enforcement officer is carrying concealed. Federal law, however, specifies that the exemption for qualified law enforcement officers and qualified retired law enforcement officers does not apply if the firearm involved is a machine gun, has a silencer attached to it, or is a destructive device (such as a bomb). Federal law also specifies that a state may: 1) permit private persons or entities to bar the possession of concealed firearms on their own property; and 2) prohibit or restrict the possession of firearms on any state or local government property, installation, base, building, or park.

**What the bill does**

This bill codifies in the state concealed weapons statute the provisions of federal law that make the statute inapplicable to active duty and retired law enforcement officers under the circumstances specified in federal law (and described above). To implement federal law, the bill also makes certain other state law prohibitions regarding the carrying of firearms inapplicable to an active duty or retired law enforcement officer if he or she is carrying a concealed firearm under those same circumstances. These include the prohibition on going armed with a handgun in a tavern, the prohibition regarding the possession, transportation, or loading of a handgun in ~~certain~~ vehicles, and the prohibition on possessing a firearm that may arise in certain domestic abuse cases. (Depending on the facts, however, a person who is subject to such an injunction may, as a result of that case, also be prohibited under federal law from possessing a firearm, which means that the federal law regarding the carrying of a concealed firearm would not apply.) Similarly, the bill modifies the state's prohibition on possessing a firearm in a school zone to create an exemption for active duty and retired law enforcement officers. ~~The bill, however,~~ leaves unaffected the provisions of the gun-free school zone law that relate to possession of a firearm in a public school itself or on the grounds of a public school.

The bill also ~~requires~~ state and local law enforcement agencies in Wisconsin to ~~issue to their retired law enforcement officers photo ID cards of the type that will permit the retired officers to carry concealed firearms in the manner provided under federal law.~~ Under the bill, after a law enforcement officer retires from service with a state or local law enforcement agency, the agency must provide the retired officer, upon his or her request, opportunities to meet the agency's standards for training and qualification that active duty officers must meet to carry firearms. The agency must also provide the retired officer a photo ID card upon his or her request if, within the preceding 12 months, the officer met those standards or if the agency does not have any such standards. The photo ID card must indicate all of the following: 1) that the agency has found that the officer has met the issuing agency's standards for

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training and qualification for its active duty law enforcement officers to carry firearms; 2) the date on which the agency made that finding; and 3) the type of firearm that, as a result of the finding, the officer may be qualified to carry concealed. These requirements, however, apply only if: 1) the retired officer satisfies the first four criteria listed above for being a "qualified retired law enforcement officer" under federal law; 2) the Department of Justice (DOJ) determines that its records do not indicate that the retired officer is prohibited from possessing a firearm under federal law or (with the exception of the prohibition based on a domestic abuse injunction) state law; and 3) the retired officer is a Wisconsin resident. If a retired officer lives in another state, he or she may have the agency issue a less detailed photo ID card which, in combination with a certification issued by the other state, would permit the person to carry a concealed firearm. The agency may charge the retired officer a fee to cover the costs of issuing either type of ID card. The agency may also charge a Wisconsin resident a fee to cover the costs of providing training and determining the person's eligibility. In addition, DOJ may charge a Wisconsin resident for conducting a background check.

Finally, the bill requires an active duty or retired law enforcement officer to carry his or her ID card, or ID card and certification, while carrying a concealed firearm. A person who violates this prohibition is subject to a forfeiture (a civil penalty) of not more than \$200. (In contrast to the requirements of federal law, the exemption that the bill creates in the state's concealed weapons statute for an active duty or retired law enforcement officer is not dependent on the person carrying his or her ID card, or ID card and certification. The person only needs to have been issued the ID card, or ID card and certification, for the exemption to apply.)

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

*DOJ and other law enforcement*  
**The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:**

1        **SECTION 1.** 20.455 (2) (gu) of the statutes is created to read:

2        20.455 (2) (gu) *Training and identification cards relating to carrying of*  
3        *concealed weapons.* All moneys received as fees under s. 175.50 to provide training  
4        and identification cards to retired law enforcement officers seeking to carry  
5        concealed weapons and to confirm their eligibility to do so.

6        **SECTION 2.** 23.33 (3) (e) of the statutes is renumbered 23.33 (3) (e) (intro.) and  
7        amended to read:

**BILL**

1           23.33 (3) (e) (intro.) With any firearm in his or her possession unless it is  
2           unloaded and enclosed in a carrying case, ~~or any bow unless it is unstrung or enclosed~~  
3           ~~in a carrying case.~~ <sup>Plain</sup> This paragraph does not apply to any of the following:

4           **SECTION 3.** 23.33 (3) (e) 1. of the statutes is created to read:

5           23.33 (3) (e) 1. A person who is employed in this state by a public agency as a  
6           law enforcement officer, who is carrying a concealed firearm that has been shipped  
7           or transported in interstate or foreign commerce, and to whom s. 941.23 (1) (d) 2. to  
8           5. and (2) (b) 1. to 3. applies.

9           **SECTION 4.** 23.33 (3) (e) 2. of the statutes is created to read:

10          23.33 (3) (e) 2. A qualified out-of-state law enforcement officer, as defined in  
11          s. 941.23 (1) (d), who is carrying a concealed firearm that has been shipped or  
12          transported in interstate or foreign commerce and to whom s. 941.23 (2) (b) 1. to 3.  
13          applies.

14          **SECTION 5.** 23.33 (3) (e) 3. of the statutes is created to read:

15          23.33 (3) (e) 3. A retired Wisconsin law enforcement officer, as defined in s.  
16          941.23 (1) (f), or a retired federal or out-of-state law enforcement officer, as defined  
17          in s. 941.23 (1) (e), who is carrying a concealed firearm that has been shipped or  
18          transported in interstate or foreign commerce and to whom s. 941.23 (2) (c) 3. a. to  
19          f. applies.

20          **SECTION 6.** 23.33 (3) (em) of the statutes is created to read:

21          23.33 (3) (em) With any bow unless it is unstrung or enclosed in a carrying case.

22          **SECTION 7.** 29.091 of the statutes is renumbered 29.091 (1) and amended to  
23          read:

24          29.091 (1) No person may hunt or trap within any wildlife refuge established  
25          under s. 23.09 (2) (b) or 29.621 (1), or, except as provided in sub. (2), have possession

**BILL****SECTION 7**

1 or control of any gun, firearm, bow or crossbow unless the gun or firearm is unloaded,  
2 the bow or crossbow is unstrung and the gun, firearm, bow or crossbow is enclosed  
3 within a carrying case. The taking of predatory game birds and animals shall be done  
4 as the department directs. All state wildlife refuge boundary lines shall be marked  
5 by posts placed at intervals of not over 500 feet and bearing signs with the words  
6 "Wisconsin Wildlife Refuge".

7 **SECTION 8.** 29.091 (2) of the statutes is created to read:

8 29.091 (2) The prohibition in sub. (1), as it relates to the possession or control  
9 of a loaded or unencased firearm within a game refuge established under s. 23.09 (2)  
10 (b), does not apply to any of the following:

11 (a) A person who is employed in this state by a public agency as a law  
12 enforcement officer, who is carrying a concealed firearm that has been shipped or  
13 transported in interstate or foreign commerce, and to whom s. 941.23 (1) (d) 2. to 5.  
14 and (2) (b) 1. to 3. applies.

15 (b) A qualified out-of-state law enforcement officer, as defined in s. 941.23 (1)  
16 (d), who is carrying a concealed firearm that has been shipped or transported in  
17 interstate or foreign commerce and to whom s. 941.23 (2) (b) 1. to 3. applies.

18 (c) A retired Wisconsin law enforcement officer, as defined in s. 941.23 (1) (f),  
19 or a retired federal or out-of-state law enforcement officer, as defined in s. 941.23  
20 (1) (e), who is carrying a concealed firearm that has been shipped or transported in  
21 interstate or foreign commerce and to whom s. 941.23 (2) (c) 3. a. to f. applies.

22 **SECTION 9.** 29.621 (4) of the statutes is renumbered 29.621 (4) (intro.) and  
23 amended to read:

24 <sup>(CS) PROTECTION,</sup>  
25 29.621 (4) (intro.) Except as provided in s. 29.091 (1), no owner of a wildlife  
refuge, and no other person, may hunt or trap within the boundaries of any wildlife

**BILL**

1     refuge or have in his or her possession or under his or her control in the wildlife refuge  
2     a gun, firearm, bow or crossbow, unless the gun or firearm is unloaded, the bow or  
3     crossbow is unstrung and the gun, firearm, bow or crossbow is enclosed within a  
4     carrying case. ~~Nothing in this section may prohibit, prevent or interfere with the~~  
5     ~~department in the destruction of injurious animals.~~ This subsection, as it relates to  
6     the possession or control of a loaded or unencased firearm, does not apply to any of  
7     the following:

8             **SECTION 10.** 29.621 (4) (a) of the statutes is created to read:

9             29.621 (4) (a) A person who is employed in this state by a public agency as a  
10     law enforcement officer, who is carrying a concealed firearm that has been shipped  
11     or transported in interstate or foreign commerce, and to whom s. 941.23 (1) (d) 2. to  
12     5. and (2) (b) 1. to 3. applies.

13            **SECTION 11.** 29.621 (4) (b) of the statutes is created to read:

14            29.621 (4) (b) A qualified out-of-state law enforcement officer, as defined in s.  
15     941.23 (1) (d), who is carrying a concealed firearm that has been shipped or  
16     transported in interstate or foreign commerce and to whom s. 941.23 (2) (b) 1. to 3.  
17     applies.

18            **SECTION 12.** 29.621 (4) (c) of the statutes is created to read:

19            29.621 (4) (c) A retired Wisconsin law enforcement officer, as defined in s.  
20     941.23 (1) (f), or a retired federal or out-of-state law enforcement officer, as defined  
21     in s. 941.23 (1) (e), who is carrying a concealed firearm that has been shipped or  
22     transported in interstate or foreign commerce and to whom s. 941.23 (2) (c) 3. a. to  
23     f. applies.

24            **SECTION 13.** 29.621 (6) of the statutes is created to read:

**BILL****SECTION 13**

1           29.621 (6) INJURIOUS ANIMALS. Nothing in this section may prohibit, prevent,  
2 or interfere with the department in the destruction of injurious animals.

3           **SECTION 14.** 165.82 (1) (intro.) of the statutes is amended to read:

4           165.82 (1) (intro.) Notwithstanding s. 19.35 (3), the department of justice shall  
5 impose the following fees, plus any surcharge required under sub. (1m), for criminal  
6 history searches for purposes unrelated to criminal justice or to s. 175.35 or 175.50:

7           **SECTION 15.** 165.82 (2) of the statutes is amended to read:

8           165.82 (2) ~~Except as provided in s. 175.35, the~~ The department of justice shall  
9 not impose fees for criminal history searches for purposes related to criminal justice.

10          **SECTION 16.** 167.31 (4) (ar) of the statutes is created to read:

11          167.31 (4) (ar) Subsections (2) (a), <sup>and</sup> (b), and (c) and (3) (a) and (b) do not apply  
12 to the placement, possession, or transportation of a firearm by any of the following:

13           1. A person who is employed in this state by a public agency as a law  
14 enforcement officer, who is carrying a concealed firearm that has been shipped or  
15 transported in interstate or foreign commerce, and to whom s. 941.23 (1) (d) 2. to 5.  
16 and (2) (b) 1. to 3. applies.

17           2. A qualified out-of-state law enforcement officer, as defined in s. 941.23 (1)  
18 (d), who is carrying a concealed firearm that has been shipped or transported in  
19 interstate or foreign commerce and to whom s. 941.23 (2) (b) 1. to 3. applies.

20           3. A retired Wisconsin law enforcement officer, as defined in s. 941.23 (1) (f),  
21 or a retired federal or out-of-state law enforcement officer, as defined in s. 941.23  
22 (1) (e), who is carrying a concealed firearm that has been shipped or transported in  
23 interstate or foreign commerce and to whom s. 941.23 (2) (c) 3. a. to f. applies.

24          **SECTION 17.** 175.50 of the statutes is created to read:



## BILL

1           **175.50 Retired law enforcement officers seeking to carry concealed**  
2           **weapons. (1) DEFINITIONS. In this section:**

3           (a) "Department" means the department of justice.

4           (b) "Law enforcement officer" means a person who is employed by a public  
5           agency for the purpose of engaging in, or supervising others engaging in, the  
6           prevention, detection, investigation, or prosecution of, or the incarceration of any  
7           person for, any violation of law and who has statutory powers of arrest.

8           (c) "Wisconsin law enforcement agency" has the meaning given in s. 175.46 (1)

9           (f).

10           **(2) LAW ENFORCEMENT AGENCY DUTIES.** Subject to sub. (3), after a law  
11           enforcement officer retires from service with a Wisconsin law enforcement agency,  
12           the agency shall do all of the following:

13           (a) Provide the retired officer, upon request and at his or her own expense,  
14           opportunities to meet the standards established by the agency for training and  
15           qualification that its active duty officers are required to meet, as a condition of their  
16           carrying firearms.

17           (b) Issue and provide the retired officer, upon request and at his or her own  
18           expense, an identification card that <sup>contains</sup> includes his or her photograph and that meets  
19           the requirements of sub. (4) if one of the following applies:

20           1. Within the preceding 12 months, either before or after retiring, the retired  
21           officer met the standards described in par. (a).

22           2. The agency does not have any standards of the type described in par. (a).

23           (c) Issue and provide the retired officer, upon request and at his or her own  
24           expense, <sup>to an</sup> a photographic identification card that indicates that he or she retired from  
25           service from the agency as a law enforcement officer. This paragraph applies only

the retired officer  
is a resident  
of this state and

contains  
~~includes~~ his or her  
photograph and that

**BILL****SECTION 17**

1 if the retired officer is not a resident of Wisconsin when requesting the issuance of  
2 the card.

3 (3) PREREQUISITES FOR AGENCY ACTION. (a) Subsection (2) does not apply with  
4 respect to a person requesting an opportunity to meet a law enforcement agency's  
5 firearms standards under sub. (2) (a) or requesting an identification card from a law  
6 enforcement agency under sub. (2) (b) or (c) unless all of the following apply:

7 1. The person retired in good standing from service as a law enforcement officer  
8 with the agency for reasons other than mental instability.

9 2. At least one of the following <sup>applies</sup> ~~apply~~:

10 a. Before retiring, the person was regularly employed as a law enforcement  
11 officer for an aggregate of 15 years or more.

12 b. The person completed any applicable probationary period of service with the  
13 agency and retired from service with the agency due to a service-connected  
14 disability, as determined by the agency.

15 3. The person has a nonforfeitable right to benefits under the agency's  
16 retirement plan.

17 4. The department determines that its records do not indicate that the person  
18 is prohibited from possessing a firearm under federal law or is a person specified in  
19 s. 941.29 (1) (a), (b), (bm), (c), (d), (e), or (g). The department shall promulgate rules  
20 specifying how Wisconsin law enforcement agencies may request that the  
21 department make such a determination with respect to a person formerly employed  
22 as a law enforcement officer by that agency. Rules promulgated under this  
23 paragraph may require a person who is the subject of a determination under this  
24 subdivision to pay a fee to the department to cover the department's costs.

25 5. The person is a resident of this state.

**BILL**

1 (b) A Wisconsin law enforcement agency may require a person to sign  
2 appropriate consents for release of information to enable the agency to confirm that  
3 he or she meets all of the prerequisites under this subsection for the agency to act  
4 under sub. (2).

5 (c) In addition to other fees authorized under sub. (2) (a) and (b), a Wisconsin  
6 law enforcement agency may require a person to pay a fee, not to exceed the agency's  
7 costs, for verifying his or her employment history or retirement plan status under  
8 par. (a).

9 (4) REQUIREMENTS FOR IDENTIFICATION CARDS. An identification card issued to  
10 a retired officer under sub. (2) shall indicate all of the following:

11 (a) That the agency has found that the retired officer has met the standards  
12 described in sub. (2) (a), if any.

13 (b) The date on which the agency made the finding under par. (a).

14 (c) The type of firearm that, as a result of the finding under par. (a), the retired  
15 officer may be qualified to carry concealed.

16 (5) FEES. Payments made to the department under sub. (2) or (3) (c) or under  
17 rules promulgated under sub. (3) (a) 4. shall be credited to the appropriation under  
18 s. 20.455 (2) (gu).

19 (6) SCHEDULING OF TRAINING. A Wisconsin law enforcement agency is not  
20 required to offer training under sub. (2) <sup>(a)</sup> other than through regularly scheduled  
21 sessions for its active duty law enforcement officers.

22 **SECTION 18.** 440.26 (3m) of the statutes is renumbered 440.26 (3m) (intro.) and  
23 amended to read:

24 **440.26 (3m) RULES CONCERNING DANGEROUS WEAPONS.** (intro.) The department  
25 shall promulgate rules relating to the carrying of dangerous weapons by a person

**BILL****SECTION 18**

1 who holds a license or permit issued under this section or who is employed by a  
2 person licensed under this section. The rules shall meet the minimum requirements  
3 specified in 15 USC 5902 (b). and shall allow all of the following:

4 **SECTION 19.** 440.26 (3m) (a) of the statutes is created to read:

5 440.26 (3m) (a) A person who is employed in this state by a public agency as  
6 a law enforcement officer to carry a concealed firearm that has been shipped or  
7 transported in interstate or foreign commerce if s. 941.23 (1) (d) 2. to 5. and (2) (b)  
8 1. to 3. applies.

9 **SECTION 20.** 440.26 (3m) (b) of the statutes is created to read:

10 440.26 (3m) (b) A retired Wisconsin law enforcement officer, as defined in s.  
11 941.23 (1) (f), and a retired federal or out-of-state law enforcement officer, as defined  
12 in s. 941.23 (1) (e), to carry a concealed firearm that has been shipped or transported  
13 in interstate or foreign commerce if s. 941.23 (2) (c) 3. a. to f. applies.

14 **SECTION 21.** 885.235 (1g) (intro.) of the statutes is amended to read:

15 885.235 (1g) (intro.) In any action or proceeding in which it is material to prove  
16 that a person was under the influence of an intoxicant or had a prohibited alcohol  
17 concentration or a specified alcohol concentration while operating or driving a motor  
18 vehicle or, if the vehicle is a commercial motor vehicle, on duty time, while operating  
19 a motorboat, except a sailboat operating under sail alone, while operating a  
20 snowmobile, while operating an all-terrain vehicle, while going armed with a  
21 concealed weapon, or while handling a firearm, evidence of the amount of alcohol in  
22 the person's blood at the time in question, as shown by chemical analysis of a sample  
23 of the person's blood or urine or evidence of the amount of alcohol in the person's  
24 breath, is admissible on the issue of whether he or she was under the influence of an  
25 intoxicant or had a prohibited alcohol concentration or a specified alcohol

**BILL**

1 concentration if the sample was taken within 3 hours after the event to be proved.  
2 The chemical analysis shall be given effect as follows without requiring any expert  
3 testimony as to its effect:

4 **SECTION 22.** 941.23 of the statutes is renumbered 941.23 (2) (intro.) and  
5 amended to read:

6 941.23 (2) (intro.) Any person ~~except a peace officer~~ other than one of the  
7 following who goes armed with a concealed and dangerous weapon is guilty of a Class  
8 A misdemeanor.:

9 **SECTION 23.** 941.23 (1) of the statutes is created to read:

10 941.23 (1) In this section:

11 (a) "Destructive device" means any of the following but does not include an  
12 exempt device:

13 1. A bomb, a grenade, a rocket having a propellant charge of more than 4  
14 ounces, a missile having an explosive or incendiary charge of more than 0.25 ounce,  
15 a mine, or any similar device.

16 2. Any type of weapon, other than a shotgun or a shotgun shell that the U.S.  
17 department of justice finds is generally recognized as particularly suitable for  
18 sporting purposes, that expels, or that may be readily converted to expel, a projectile  
19 by the action of an explosive or other propellant and that has a barrel with a bore of  
20 more than 0.5 inch in diameter.

21 3. Any combination of parts that is designed for converting, or intended for use  
22 in converting, any device into a device described in subd. 1. or 2. and from which a  
23 device described in subd. 1. or 2. may be readily assembled.

24 (b) "Exempt device" means any of the following:

25 1. A device that is neither designed nor redesigned for use as a weapon.

**BILL****SECTION 23**

2. A device that, although originally designed for use as a weapon, is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device.

3. Surplus ordnance sold, loaned, or given by the U.S. secretary of the army under 10 USC 4684 (2), 4685, or 4686.

4. Any other device that the U.S. department of justice finds is not likely to be used as a weapon, is an antique, or is a rifle that the owner intends to use solely for sporting, recreational, or cultural purposes.

(c) "Law enforcement officer" has the meaning given in s. 175.50 (1) (b).

(d) "Qualified out-of-state law enforcement officer" means a law enforcement officer to whom all of the following apply:

1. The person is employed by a state or local government agency in another state.

2. The agency has authorized the person to carry a firearm.

3. The person is not the subject of any disciplinary action by the agency.

4. The person meets all standards established by the agency to qualify the person on a regular basis to use a firearm.

5. The person is not prohibited under federal law from possessing a firearm.

(e) "Retired federal or out-of-state law enforcement officer" means a person who, before retiring, was employed as a law enforcement officer with a public agency other than a Wisconsin law enforcement agency. *as defined in s. 175.50 (1) (c)*

(f) "Retired Wisconsin law enforcement officer" means a person who, before retiring, was employed as a law enforcement officer with a Wisconsin law enforcement agency, as defined in s. 175.50 (1) (c).

**SECTION 24.** 941.23 (2) (a) of the statutes is created to read:

941.23 (2) (a) A peace officer.

**BILL**

1           **SECTION 25.** 941.23 (2) (b) of the statutes is created to read:

2           941.23 (2) (b) A qualified out-of-state law enforcement officer. This paragraph  
3 applies only if all of the following apply:

4           1. The weapon is a firearm that has been shipped or transported in interstate  
5 or foreign commerce but is not a machine gun, as defined in s. 941.27 (1), or a  
6 destructive device.

7           2. A firearm silencer, as defined in s. 941.298 (1), is not attached to the weapon.

8           3. The officer is not under the influence of an intoxicant.

9           **SECTION 26.** 941.23 (2) (c) of the statutes is created to read:

10          941.23 (2) (c) 1. A retired Wisconsin law enforcement officer.

11          2. A retired federal or out-of-state law enforcement officer.

12          3. This paragraph applies only if all of the following apply:

13          a. The weapon is a firearm that has been shipped or transported in interstate  
14 or foreign commerce and is of the type described in a valid identification card  
15 described in sub. (3) (b) 1. or 2. (intro.) or (c) 1. or 2. (intro.) that was issued to the  
16 retired officer within the preceding 12 months or a valid certification described in  
17 sub. (3) (b) 2. b. or (c) 2. b. that was issued to the retired officer within the preceding  
18 12 months.

19          b. Within the preceding 12 months, the retired officer met the standards of the  
20 state in which he or she resides for training and qualification for active duty law  
21 enforcement officers to carry firearms.

22          c. The weapon is not a machine gun, as defined in s. 941.27 (1), or a destructive  
23 device.

24          d. A firearm silencer, as defined in s. 941.298 (1), is not attached to the weapon.

25          e. The retired officer is not under the influence of an intoxicant.

## BILL

## SECTION 26

1 f. The retired officer is not prohibited under federal law from possessing a  
2 firearm.

3 SECTION 27. 941.23 (3) of the statutes is created to read:

4 941.23 (3) (a) A person to whom sub. (2) (b) applies shall, while carrying a  
5 concealed firearm, also carry an identification card that contains his or her  
6 photograph and that was issued by the law enforcement agency by which he or she  
7 is employed. *INS 16/4*

8 (b) 1. A resident of this state to whom sub. (2) (c) 1. applies shall, while carrying  
9 a concealed firearm, also carry an identification card issued within the preceding 12  
10 months under s. 175.50 (2) (b). *INS 16/5*

11 2. A person who is not a resident of this state and to whom sub. (2) (c) 1. applies  
12 shall, while carrying a concealed firearm, also carry either an identification card  
13 issued within the preceding 12 months under s. 175.50 (2) (b), if the person was a  
14 resident of this state when the card was issued, or both of the following: *INS 16/11*

15 a. An identification card that was issued by the law enforcement agency that  
16 employed the person as a law enforcement officer immediately before his or her  
17 retirement and that contains his or her photograph.

18 b. A certification issued by the state in which the person resides that indicates  
19 that, within the preceding 12 months, the person was tested or otherwise found by  
20 the state to meet the standards established by the state for training and qualification  
21 for active duty law enforcement officers to carry a firearm of the same type as the  
22 concealed firearm.

23 (c) 1. A resident of this state to whom sub. (2) (c) 2. applies shall, while carrying  
24 a concealed firearm, also carry an identification card that was issued within the  
25 preceding 12 months by the law enforcement agency that employed the person as a *INS 16/23*



**BILL**

1 law enforcement officer immediately before his or her retirement and that is  
2 substantially similar to one issued under s. 175.50 (2) (b).

3 2. A person who is not a resident of this state and to whom sub. (2) (c) 2. applies  
4 shall, while carrying a concealed firearm, also carry either an identification card that  
5 was issued within the preceding 12 months by the law enforcement agency that  
6 employed the person as a law enforcement officer immediately before his or her  
7 retirement and that is substantially similar to one issued under s. 175.50 (2) (b) or  
8 both of the following:

9 a. An identification card that was issued by the law enforcement agency that  
10 employed the person as a law enforcement officer immediately before his or her  
11 retirement and that contains his or her photograph.

12 b. A certification issued by the state in which the person resides that indicates  
13 that, within the preceding 12 months, the person was tested or otherwise found by  
14 the state to meet the standards established by the state for training and qualification  
15 for active duty law enforcement officers to carry a firearm of the same type as the  
16 concealed firearm.

17 **SECTION 28.** 941.237 (3) (cr) of the statutes is created to read:

18 941.237 (3) (cr) A qualified out-of-state law enforcement officer, as defined in  
19 s. 941.23 (1) (d), who is carrying a concealed firearm that has been shipped or  
20 transported in interstate or foreign commerce and to whom s. 941.23 (2) (b) 1. to 3.  
21 applies.

22 **SECTION 29.** 941.237 (3) (L) of the statutes is created to read:

23 941.237 (3) (L) A retired Wisconsin law enforcement officer, as defined in s.  
24 941.23 (1) (f), or a retired federal or out-of-state law enforcement officer, as defined  
25 in s. 941.23 (1) (e), who is carrying a concealed firearm that has been shipped or

**BILL****SECTION 29**

1 transported in interstate or foreign commerce and to whom s. 941.23 (2) (c) 3. a. to  
2 f. applies.

3 **SECTION 30.** 941.29 (11) of the statutes is created to read:

4 941.29 (11) This section does not apply to any of the following:

5 (a) A person who is employed in this state by a public agency as a law  
6 enforcement officer, who is carrying a concealed firearm that has been shipped or  
7 transported in interstate or foreign commerce, and to whom s. 941.23 (1) (d) 2. to 5.  
8 and (2) (b) 1. to 3. applies.

9 (b) A qualified out-of-state law enforcement officer, as defined in s. 941.23 (1)  
10 (d), who is carrying a concealed firearm that has been shipped or transported in  
11 interstate or foreign commerce and to whom s. 941.23 (2) (b) 1. to 3. applies.

12 (c) A retired Wisconsin law enforcement officer, as defined in s. 941.23 (1) (f),  
13 or a retired federal or out-of-state law enforcement officer, as defined in s. 941.23  
14 (1) (e), who is carrying a concealed firearm that has been shipped or transported in  
15 interstate or foreign commerce and to whom s. 941.23 (2) (c) 3. a. to f. applies.

16 **SECTION 31.** 948.605 (2) (c) of the statutes is created to read:

17 948.605 (2) (c) Paragraph (a) applies to the possession of a firearm by one of  
18 the following persons only if the property on which the person possesses the firearm  
19 is a state or local government property, installation, building, base, or park:

20 1. A person who is employed in this state by a public agency as a law  
21 enforcement officer, who is carrying a concealed firearm that has been shipped or  
22 transported in interstate or foreign commerce, and to whom s. 941.23 (1) (d) 2. to 5.  
23 and (2) (b) 1. to 3. applies.

# BILL

2. A qualified out-of-state law enforcement officer, as defined in s. 941.23 (1) (d), who is carrying a concealed firearm that has been shipped or transported in interstate or foreign commerce and to whom s. 941.23 (2) (b) 1. to 3. applies.

3. A retired Wisconsin law enforcement officer, as defined in s. 941.23 (1) (f),  
or a retired federal or out-of-state law enforcement officer, as defined in s. 941.23  
(1) (e), who is carrying a concealed firearm that has been shipped or transported in  
interstate or foreign commerce and to whom s. 941.23 (2) (c) 3. a. to f. applies.

8 (END)

**2005-2006 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1617/3ins  
MGD:.....

1      **analysis INSERT A**

(Wisconsin law does not currently set or impose any standards for ongoing training and qualification for active duty law enforcement officers to remain eligible to carry firearms.)

2      **analysis INSERT B**

These changes, however, relate only to the carrying of a concealed firearm at or within 1,000 feet of a private school and within 1,000 feet of the grounds of a public school. The bill

3      **INSERT 9/16**

4      This paragraph applies only if the retired officer is a resident of this state.

5      **INSERT 16/4**

6      qualified out-of-state law enforcement officer

7      **INSERT 16/8**

8      retired Wisconsin law enforcement officer who resides in this state

9      **INSERT 16/11**

10      retired Wisconsin law enforcement officer who does not reside in this state

11      **INSERT 16/23**

12      retired federal or out-of-state law enforcement officer who resides in this state

13      **INSERT 17/3**

14      retired federal or out-of-state law enforcement officer who does not reside in  
15      this state

**Barman, Mike**

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**From:** Sherman, Gary  
**Sent:** Wednesday, April 27, 2005 3:02 PM  
**To:** LRB.Legal  
**Subject:** Draft review: LRB 05-1617/3 Topic: Active and retired law enforcement officers carrying concealed weapons

It has been requested by <Sherman, Gary> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB 05-1617/3 Topic: Active and retired law enforcement officers carrying concealed weapons



State of Wisconsin  
2005 - 2006 LEGISLATURE

LRB-1617/3-4  
MGD:wlj:pg

2005 BILL

other

Regen

1 AN ACT *to renumber and amend* 23.33 (3) (e), 29.091, 29.621 (4), 440.26 (3m)  
2 and 941.23; *to amend* 165.82 (1) (intro.), 165.82 (2) and 885.235 (1g) (intro.);  
3 and *to create* 20.455 (2) (gu), 23.33 (3) (e) 1., 23.33 (3) (e) 2., 23.33 (3) (e) 3.,  
4 23.33 (3) (em), 29.091 (2), 29.621 (4) (a), 29.621 (4) (b), 29.621 (4) (c), 29.621 (6),  
5 167.31 (4) (ar), 175.50, 440.26 (3m) (a), 440.26 (3m) (b), 941.23 (1), 941.23 (2)  
6 (a), 941.23 (2) (b), 941.23 (2) (c), 941.23 (3), 941.237 (3) (cr), 941.237 (3) (L),  
7 941.29 (11) and 948.605 (2) (c) of the statutes; **relating to:** carrying of concealed  
8 weapons by out-of-state and retired law enforcement officers, granting  
9 rule-making authority, and making an appropriation.

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***Analysis by the Legislative Reference Bureau***

This bill makes certain changes in Wisconsin law to account for a federal law that requires the state to permit an individual who works as or who has retired from working as a federal, state, tribal, or local law enforcement officer in Wisconsin or in any other state to carry a concealed firearm under certain circumstances.

***Current state and federal law regarding concealed weapons***

Wisconsin law specifies that, in general, no person may go armed with a concealed firearm or any other concealed, dangerous weapon. This prohibition,

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however, does not apply to peace officers, such as local, state, tribal, or federal law enforcement officers. In addition, under *State v. Hamdan*, 2003 WI 113, 264 Wis. 2d 433, it is unconstitutional to apply this prohibition to a person carrying a concealed weapon at his or her own business when: 1) the person's interest in carrying a concealed weapon substantially outweighs the state's interest in enforcing the concealed weapons law; 2) the person has no other reasonable means to keep and handle the weapon; and 3) the person is not motivated by an unlawful purpose in concealing it. The *Hamdan* court also indicated that the constitutional right to keep and bear arms for security must permit a person to carry a concealed weapon under certain circumstances in his or her own home.

In addition, federal law prohibits the state from barring certain active duty or retired law enforcement officers from carrying concealed firearms. Under federal law, qualified law enforcement officers and qualified retired law enforcement officers who meet certain specified requirements may carry concealed firearms that have been shipped or transported in interstate or foreign commerce, regardless of any prohibition imposed under state law.

Federal law specifies the criteria that a person must meet to be a qualified law enforcement officer or a qualified retired law enforcement officer. To be the former, a person must: 1) be employed by a government agency; 2) be a law enforcement officer (defined under federal law as a person authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law and having statutory powers of arrest); 3) be authorized by the agency to carry a firearm; 4) not be the subject of any disciplinary action by the agency; 5) not be under the influence of alcohol or other drugs; 6) not be prohibited under federal law from possessing a firearm; and 7) meet all standards, if any, established by the agency to qualify the person on a regular basis to use a firearm. For a person to be a qualified retired law enforcement officer, all of the following must apply: 1) the person retired in good standing from service with a government agency as a law enforcement officer, other than for reasons of mental instability; 2) before retirement, the person was regularly employed as a law enforcement officer for an aggregate of 15 years or more or retired after completing any applicable probationary period of service due to a service-connected disability; 3) the person has a nonforfeitable right to benefits under the agency's retirement plan; 4) the person is not under the influence of alcohol or other drugs; 5) the person is not prohibited under federal law from possessing a firearm; and 6) during the most recent 12-month period, the person has met the state's standards for training and qualification for active duty law enforcement officers to carry firearms. (Wisconsin law does not currently set or impose any standards for ongoing training and qualification for active duty law enforcement officers to remain eligible to carry firearms.)

Under federal law, if a person is a qualified law enforcement officer, the prohibition contained in Wisconsin law regarding going armed with a concealed and dangerous weapon does not apply to his or her going armed with a concealed firearm if the person carries a photo ID issued by the agency for which he or she works. If the person is a qualified retired law enforcement officer, the prohibition does not

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apply to his or her going armed with a concealed firearm if the person carries either: 1) a photo ID issued by the agency from which the person retired as a law enforcement officer that indicates that, within the preceding 12 months, the agency has tested the person or otherwise found that he or she meets its standards for training and qualification for active duty law enforcement officers to carry the type of firearm that the qualified retired law enforcement officer is carrying concealed; or 2) both of the following: a) a photo ID issued by the agency from which the person retired as a law enforcement officer; and b) a certification issued by the state in which the person resides that indicates that, within the preceding 12 months, the state has tested the person or otherwise found that he or she meets its standards for training and qualification for active duty law enforcement officers to carry the type of firearm that the qualified retired law enforcement officer is carrying concealed. Federal law, however, specifies that the exemption for qualified law enforcement officers and qualified retired law enforcement officers does not apply if the firearm involved is a machine gun, has a silencer attached to it, or is a destructive device (such as a bomb). Federal law also specifies that a state may: 1) permit private persons or entities to bar the possession of concealed firearms on their own property; and 2) prohibit or restrict the possession of firearms on any state or local government property, installation, base, building, or park.

***What the bill does***

This bill codifies in the state concealed weapons statute the provisions of federal law that make the statute inapplicable to active duty and retired law enforcement officers under the circumstances specified in federal law (and described above). To implement federal law, the bill also makes certain other state law prohibitions regarding the carrying of firearms inapplicable to an active duty or retired law enforcement officer if he or she is carrying a concealed firearm under those same circumstances. These include the prohibition on going armed with a handgun in a tavern, the prohibition regarding the possession, transportation, or loading of a handgun in vehicles, motorboats, and aircraft, and the prohibition on possessing a firearm that may arise in certain domestic abuse cases. (Depending on the facts, however, a person who is subject to such an injunction may, as a result of that case, also be prohibited under federal law from possessing a firearm, which means that the federal law regarding the carrying of a concealed firearm would not apply.) Similarly, the bill modifies the state's prohibition on possessing a firearm in a school zone to create an exemption for active duty and retired law enforcement officers who are carrying concealed firearms. These changes, however, relate only to the carrying of a concealed firearm at or within 1,000 feet of a private school and within 1,000 feet of the grounds of a public school. The bill leaves unaffected the provisions of the gun-free school zone law that relate to possession of a firearm in a public school itself or on the grounds of a public school.

The bill also imposes certain requirements on state and local law enforcement agencies in Wisconsin to enable retired law enforcement officers to carry concealed firearms in the manner provided under federal law. Under the bill, after a law enforcement officer retires from service with a state or local law enforcement agency, the agency must provide the retired officer, upon his or her request, opportunities to



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meet the agency's standards for training and qualification that active duty officers must meet to carry firearms. The agency must also provide the retired officer a photo ID card upon his or her request if, within the preceding 12 months, the officer met those standards or if the agency does not have any such standards. The photo ID card must indicate all of the following: 1) that the agency has found that the officer has met the issuing agency's standards for training and qualification for its active duty law enforcement officers to carry firearms; 2) the date on which the agency made that finding; and 3) the type of firearm that, as a result of the finding, the officer may be qualified to carry concealed. These requirements, however, apply only if: 1) the retired officer satisfies the first three criteria listed above for being a "qualified retired law enforcement officer" under federal law; 2) the Department of Justice (DOJ) determines that its records do not indicate that the retired officer is prohibited from possessing a firearm under federal law or (with the exception of the prohibition based on a domestic abuse injunction) state law; and 3) the retired officer is a Wisconsin resident. If a retired officer lives in another state, he or she may have the agency issue a less detailed photo ID card which, in combination with a certification issued by the other state, would permit the person to carry a concealed firearm.

A law enforcement agency may charge a retired officer a fee to cover the costs of issuing either type of ID card. DOJ and other law enforcement agencies may also charge a Wisconsin resident a fee to cover the costs of providing training and determining the person's eligibility.

Finally, the bill requires an active duty or retired law enforcement officer to carry his or her ID card, or ID card and certification, while carrying a concealed firearm. A person who violates this prohibition is subject to a forfeiture (a civil penalty) of not more than \$200. (In contrast to the requirements of federal law, the exemption that the bill creates in the state's concealed weapons statute for an active duty or retired law enforcement officer is not dependent on the person carrying his or her ID card, or ID card and certification. The person only needs to have been issued the ID card, or ID card and certification, for the exemption to apply.)

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

- 1           **SECTION 1.** 20.455 (2) (gu) of the statutes is created to read:
- 2           20.455 (2) (gu) *Training and identification cards relating to carrying of*
- 3 *concealed weapons.* All moneys received as fees under s. 175.50 to provide training
- 4 and identification cards to retired law enforcement officers seeking to carry
- 5 concealed weapons and to confirm their eligibility to do so.

**BILL**

1           **SECTION 2.** 23.33 (3) (e) of the statutes is renumbered 23.33 (3) (e) (intro.) and  
2 amended to read:

3           23.33 (3) (e) (intro.) With any firearm in his or her possession unless it is  
4 unloaded and enclosed in a carrying case, ~~or any bow unless it is unstrung or enclosed~~  
5 ~~in a carrying case.~~ This paragraph does not apply to any of the following:

6           **SECTION 3.** 23.33 (3) (e) 1. of the statutes is created to read:

7           23.33 (3) (e) 1. A person who is employed in this state by a public agency as a  
8 law enforcement officer, who is carrying a concealed firearm that has been shipped  
9 or transported in interstate or foreign commerce, and to whom s. 941.23 (1) (d) 2. to  
10 5. and (2) (b) 1. to 3. applies.

11           **SECTION 4.** 23.33 (3) (e) 2. of the statutes is created to read:

12           23.33 (3) (e) 2. A qualified out-of-state law enforcement officer, as defined in  
13 s. 941.23 (1) (d), who is carrying a concealed firearm that has been shipped or  
14 transported in interstate or foreign commerce and to whom s. 941.23 (2) (b) 1. to 3.  
15 applies.

16           **SECTION 5.** 23.33 (3) (e) 3. of the statutes is created to read:

17           23.33 (3) (e) 3. A retired Wisconsin law enforcement officer, as defined in s.  
18 941.23 (1) (f), or a retired federal or out-of-state law enforcement officer, as defined  
19 in s. 941.23 (1) (e), who is carrying a concealed firearm that has been shipped or  
20 transported in interstate or foreign commerce and to whom s. 941.23 (2) (c) 3. a. to  
21 f. applies.

22           **SECTION 6.** 23.33 (3) (em) of the statutes is created to read:

23           23.33 (3) (em) With any bow unless it is unstrung or enclosed in a carrying case.

24           **SECTION 7.** 29.091 of the statutes is renumbered 29.091 (1) and amended to  
25 read:

**BILL**

1           29.091 (1) No person may hunt or trap within any wildlife refuge established  
2           under s. 23.09 (2) (b) or 29.621 (1), or, except as provided in sub. (2), have possession  
3           or control of any gun, firearm, bow or crossbow unless the gun or firearm is unloaded,  
4           the bow or crossbow is unstrung and the gun, firearm, bow or crossbow is enclosed  
5           within a carrying case. The taking of predatory game birds and animals shall be done  
6           as the department directs. All state wildlife refuge boundary lines shall be marked  
7           by posts placed at intervals of not over 500 feet and bearing signs with the words  
8           “Wisconsin Wildlife Refuge”.

9           **SECTION 8.** 29.091 (2) of the statutes is created to read:

10          29.091 (2) The prohibition in sub. (1), as it relates to the possession or control  
11          of a loaded or unencased firearm within a game refuge established under s. 23.09 (2)  
12          (b), does not apply to any of the following:

13          (a) A person who is employed in this state by a public agency as a law  
14          enforcement officer, who is carrying a concealed firearm that has been shipped or  
15          transported in interstate or foreign commerce, and to whom s. 941.23 (1) (d) 2. to 5.  
16          and (2) (b) 1. to 3. applies.

17          (b) A qualified out-of-state law enforcement officer, as defined in s. 941.23 (1)  
18          (d), who is carrying a concealed firearm that has been shipped or transported in  
19          interstate or foreign commerce and to whom s. 941.23 (2) (b) 1. to 3. applies.

20          (c) A retired Wisconsin law enforcement officer, as defined in s. 941.23 (1) (f),  
21          or a retired federal or out-of-state law enforcement officer, as defined in s. 941.23  
22          (1) (e), who is carrying a concealed firearm that has been shipped or transported in  
23          interstate or foreign commerce and to whom s. 941.23 (2) (c) 3. a. to f. applies.

24          **SECTION 9.** 29.621 (4) of the statutes is renumbered 29.621 (4) (intro.) and  
25          amended to read:

**BILL**

1           29.621 (4) PROTECTION. (intro.) Except as provided in s. 29.091 (1), no owner  
2           of a wildlife refuge, and no other person, may hunt or trap within the boundaries of  
3           any wildlife refuge or have in his or her possession or under his or her control in the  
4           wildlife refuge a gun, firearm, bow or crossbow, unless the gun or firearm is unloaded,  
5           the bow or crossbow is unstrung and the gun, firearm, bow or crossbow is enclosed  
6           within a carrying case. ~~Nothing in this section may prohibit, prevent or interfere~~  
7           ~~with the department in the destruction of injurious animals.~~ This subsection, as it  
8           relates to the possession or control of a loaded or unencased firearm, does not apply  
9           to any of the following:

10           **SECTION 10.** 29.621 (4) (a) of the statutes is created to read:

11           29.621 (4) (a) A person who is employed in this state by a public agency as a  
12           law enforcement officer, who is carrying a concealed firearm that has been shipped  
13           or transported in interstate or foreign commerce, and to whom s. 941.23 (1) (d) 2. to  
14           5. and (2) (b) 1. to 3. applies.

15           **SECTION 11.** 29.621 (4) (b) of the statutes is created to read:

16           29.621 (4) (b) A qualified out-of-state law enforcement officer, as defined in s.  
17           941.23 (1) (d), who is carrying a concealed firearm that has been shipped or  
18           transported in interstate or foreign commerce and to whom s. 941.23 (2) (b) 1. to 3.  
19           applies.

20           **SECTION 12.** 29.621 (4) (c) of the statutes is created to read:

21           29.621 (4) (c) A retired Wisconsin law enforcement officer, as defined in s.  
22           941.23 (1) (f), or a retired federal or out-of-state law enforcement officer, as defined  
23           in s. 941.23 (1) (e), who is carrying a concealed firearm that has been shipped or  
24           transported in interstate or foreign commerce and to whom s. 941.23 (2) (c) 3. a. to  
25           f. applies.

**BILL**

1       **SECTION 13.** 29.621 (6) of the statutes is created to read:

2       29.621 (6) INJURIOUS ANIMALS. Nothing in this section may prohibit, prevent,  
3 or interfere with the department in the destruction of injurious animals.

4       **SECTION 14.** 165.82 (1) (intro.) of the statutes is amended to read:

5       165.82 (1) (intro.) Notwithstanding s. 19.35 (3), the department of justice shall  
6 impose the following fees, plus any surcharge required under sub. (1m), for criminal  
7 history searches for purposes unrelated to criminal justice or to s. 175.35 or 175.50:

8       **SECTION 15.** 165.82 (2) of the statutes is amended to read:

9       165.82 (2) ~~Except as provided in s. 175.35, the~~ The department of justice shall  
10 not impose fees for criminal history searches for purposes related to criminal justice.

11       **SECTION 16.** 167.31 (4) (ar) of the statutes is created to read:

12       167.31 (4) (ar) Subsections (2) (a) and (b) and (3) (a) and (b) do not apply to the  
13 placement, possession, or transportation of a firearm by any of the following:

14       1. A person who is employed in this state by a public agency as a law  
15 enforcement officer, who is carrying a concealed firearm that has been shipped or  
16 transported in interstate or foreign commerce, and to whom s. 941.23 (1) (d) 2. to 5.  
17 and (2) (b) 1. to 3. applies.

18       2. A qualified out-of-state law enforcement officer, as defined in s. 941.23 (1)  
19 (d), who is carrying a concealed firearm that has been shipped or transported in  
20 interstate or foreign commerce and to whom s. 941.23 (2) (b) 1. to 3. applies.

21       3. A retired Wisconsin law enforcement officer, as defined in s. 941.23 (1) (f),  
22 or a retired federal or out-of-state law enforcement officer, as defined in s. 941.23  
23 (1) (e), who is carrying a concealed firearm that has been shipped or transported in  
24 interstate or foreign commerce and to whom s. 941.23 (2) (c) 3. a. to f. applies.

25       **SECTION 17.** 175.50 of the statutes is created to read:

**BILL**

1           **175.50 Retired law enforcement officers seeking to carry concealed**  
2 **weapons. (1) DEFINITIONS.** In this section:

3           (a) “Department” means the department of justice.

4           (b) “Law enforcement officer” means a person who is employed by a public  
5 agency for the purpose of engaging in, or supervising others engaging in, the  
6 prevention, detection, investigation, or prosecution of, or the incarceration of any  
7 person for, any violation of law and who has statutory powers of arrest.

8           (c) “Wisconsin law enforcement agency” has the meaning given in s. 175.46 (1)

9 (f).

10           **(2) LAW ENFORCEMENT AGENCY DUTIES.** Subject to sub. (3), after a law  
11 enforcement officer retires from service with a Wisconsin law enforcement agency,  
12 the agency shall do all of the following:

13           (a) Provide the retired officer, upon request and at his or her own expense,  
14 opportunities to meet the standards established by the agency for training and  
15 qualification that its active duty officers are required to meet as a condition of their  
16 carrying firearms. This paragraph applies only if the retired officer is a resident of  
17 this state.

18           (b) Issue and provide the retired officer, upon request and at his or her own  
19 expense, an identification card that contains his or her photograph and that meets  
20 the requirements of sub. (4) if the retired officer is a resident of this state and one of  
21 the following applies:

22           1. Within the preceding 12 months, either before or after retiring, the retired  
23 officer met the standards described in par. (a).

24           2. The agency does not have any standards of the type described in par. (a).

**BILL****SECTION 17**

1 (c) Issue and provide the retired officer, upon request and at his or her own  
2 expense, an identification card that contains his or her photograph and that  
3 indicates that he or she retired from service from the agency as a law enforcement  
4 officer. This paragraph applies only if the retired officer is not a resident of Wisconsin  
5 when requesting the issuance of the card.

6 (3) PREREQUISITES FOR AGENCY ACTION. (a) Subsection (2) does not apply with  
7 respect to a person requesting an opportunity to meet a law enforcement agency's  
8 firearms standards under sub. (2) (a) or requesting an identification card from a law  
9 enforcement agency under sub. (2) (b) or (c) unless all of the following apply:

10 1. The person retired in good standing from service as a law enforcement officer  
11 with the agency for reasons other than mental instability.

12 2. At least one of the following applies:

13 a. Before retiring, the person was regularly employed as a law enforcement  
14 officer for an aggregate of 15 years or more.

15 b. The person completed any applicable probationary period of service with the  
16 agency and retired from service with the agency due to a service-connected  
17 disability, as determined by the agency.

18 3. The person has a nonforfeitable right to benefits under the agency's  
19 retirement plan.

20 4. The department determines that its records do not indicate that the person  
21 is prohibited from possessing a firearm under federal law or is a person specified in  
22 s. 941.29 (1) (a), (b), (bm), (c), (d), (e), or (g). The department shall promulgate rules  
23 specifying how Wisconsin law enforcement agencies may request that the  
24 department make such a determination with respect to a person formerly employed  
25 as a law enforcement officer by that agency. Rules promulgated under this

**BILL**

1 paragraph may require a person who is the subject of a determination under this  
2 subdivision to pay a fee to the department to cover the department's costs.

3 (b) A Wisconsin law enforcement agency may require a person to sign  
4 appropriate consents for release of information to enable the agency to confirm that  
5 he or she meets all of the prerequisites under this subsection for the agency to act  
6 under sub. (2).

7 (c) In addition to other fees authorized under sub. (2) (a) and (b), a Wisconsin  
8 law enforcement agency may require a person to pay a fee, not to exceed the agency's  
9 costs, for verifying his or her employment history or retirement plan status under  
10 par. (a).

11 **(4) REQUIREMENTS FOR IDENTIFICATION CARDS.** An identification card issued to  
12 a retired officer under sub. (2) shall indicate all of the following:

13 (a) That the agency has found that the retired officer has met the standards  
14 described in sub. (2) (a), if any.

15 (b) The date on which the agency made the finding under par. (a).

16 (c) The type of firearm that, as a result of the finding under par. (a), the retired  
17 officer may be qualified to carry concealed.

18 **(5) FEES.** Payments made to the department under sub. (2) or (3) (c) or under  
19 rules promulgated under sub. (3) (a) 4. shall be credited to the appropriation under  
20 s. 20.455 (2) (gu).

21 **(6) SCHEDULING OF TRAINING.** A Wisconsin law enforcement agency is not  
22 required to offer training under sub. (2) (a) other than through regularly scheduled  
23 sessions for its active duty law enforcement officers.

24 **SECTION 18.** 440.26 (3m) of the statutes is renumbered 440.26 (3m) (intro.) and  
25 amended to read:



**BILL**

1           440.26 (3m) RULES CONCERNING DANGEROUS WEAPONS. (intro.) The department  
2 shall promulgate rules relating to the carrying of dangerous weapons by a person  
3 who holds a license or permit issued under this section or who is employed by a  
4 person licensed under this section. The rules shall meet the minimum requirements  
5 specified in 15 USC 5902 (b); and shall allow all of the following:

6           **SECTION 19.** 440.26 (3m) (a) of the statutes is created to read:

7           440.26 (3m) (a) A person who is employed in this state by a public agency as  
8 a law enforcement officer to carry a concealed firearm that has been shipped or  
9 transported in interstate or foreign commerce if s. 941.23 (1) (d) 2. to 5. and (2) (b)  
10 1. to 3. applies.

11           **SECTION 20.** 440.26 (3m) (b) of the statutes is created to read:

12           440.26 (3m) (b) A retired Wisconsin law enforcement officer, as defined in s.  
13 941.23 (1) (f), and a retired federal or out-of-state law enforcement officer, as defined  
14 in s. 941.23 (1) (e), to carry a concealed firearm that has been shipped or transported  
15 in interstate or foreign commerce if s. 941.23 (2) (c) 3. a. to f. applies.

16           **SECTION 21.** 885.235 (1g) (intro.) of the statutes is amended to read:

17           885.235 (1g) (intro.) In any action or proceeding in which it is material to prove  
18 that a person was under the influence of an intoxicant or had a prohibited alcohol  
19 concentration or a specified alcohol concentration while operating or driving a motor  
20 vehicle or, if the vehicle is a commercial motor vehicle, on duty time, while operating  
21 a motorboat, except a sailboat operating under sail alone, while operating a  
22 snowmobile, while operating an all-terrain vehicle, while going armed with a  
23 concealed weapon, or while handling a firearm, evidence of the amount of alcohol in  
24 the person's blood at the time in question, as shown by chemical analysis of a sample  
25 of the person's blood or urine or evidence of the amount of alcohol in the person's

**BILL**

1 breath, is admissible on the issue of whether he or she was under the influence of an  
2 intoxicant or had a prohibited alcohol concentration or a specified alcohol  
3 concentration if the sample was taken within 3 hours after the event to be proved.  
4 The chemical analysis shall be given effect as follows without requiring any expert  
5 testimony as to its effect:

6 **SECTION 22.** 941.23 of the statutes is renumbered 941.23 (2) (intro.) and  
7 amended to read:

8 941.23 (2) (intro.) Any person ~~except a peace officer~~ other than one of the  
9 following who goes armed with a concealed and dangerous weapon is guilty of a Class  
10 A misdemeanor:

11 **SECTION 23.** 941.23 (1) of the statutes is created to read:

12 941.23 (1) In this section:

13 (a) "Destructive device" means any of the following but does not include an  
14 exempt device:

15 1. A bomb, a grenade, a rocket having a propellant charge of more than 4  
16 ounces, a missile having an explosive or incendiary charge of more than 0.25 ounce,  
17 a mine, or any similar device.

18 2. Any type of weapon, other than a shotgun or a shotgun shell that the U.S.  
19 department of justice finds is generally recognized as particularly suitable for  
20 sporting purposes, that expels, or that may be readily converted to expel, a projectile  
21 by the action of an explosive or other propellant and that has a barrel with a bore of  
22 more than 0.5 inch in diameter.

23 3. Any combination of parts that is designed for converting, or intended for use  
24 in converting, any device into a device described in subd. 1. or 2. and from which a  
25 device described in subd. 1. or 2. may be readily assembled.

**BILL**

(b) “Exempt device” means any of the following:

1. A device that is neither designed nor redesigned for use as a weapon.
2. A device that, although originally designed for use as a weapon, is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device.
3. Surplus ordnance sold, loaned, or given by the U.S. secretary of the army under 10 USC 4684 (2), 4685, or 4686.
4. Any other device that the U.S. department of justice finds is not likely to be used as a weapon, is an antique, or is a rifle that the owner intends to use solely for sporting, recreational, or cultural purposes.

(c) “Law enforcement officer” has the meaning given in s. 175.50 (1) (b).

(d) “Qualified out-of-state law enforcement officer” means a law enforcement officer to whom all of the following apply:

1. The person is employed by a state or local government agency in another state.
2. The agency has authorized the person to carry a firearm.
3. The person is not the subject of any disciplinary action by the agency.
4. The person meets all standards established by the agency to qualify the person on a regular basis to use a firearm.
5. The person is not prohibited under federal law from possessing a firearm.

(e) “Retired federal or out-of-state law enforcement officer” means a person who, before retiring, was employed as a law enforcement officer with a public agency other than a Wisconsin law enforcement agency, as defined in s. 175.50 (1) (c).

(f) “Retired Wisconsin law enforcement officer” means a person who, before retiring, was employed as a law enforcement officer with a Wisconsin law enforcement agency, as defined in s. 175.50 (1) (c).

**BILL**

1           **SECTION 24.** 941.23 (2) (a) of the statutes is created to read:

2           941.23 (2) (a) A peace officer.

3           **SECTION 25.** 941.23 (2) (b) of the statutes is created to read:

4           941.23 (2) (b) A qualified out-of-state law enforcement officer. This paragraph  
5 applies only if all of the following apply:

6           1. The weapon is a firearm that has been shipped or transported in interstate  
7 or foreign commerce but is not a machine gun, as defined in s. 941.27 (1), or a  
8 destructive device.

9           2. A firearm silencer, as defined in s. 941.298 (1), is not attached to the weapon.

10          3. The officer is not under the influence of an intoxicant.

11          **SECTION 26.** 941.23 (2) (c) of the statutes is created to read:

12          941.23 (2) (c) 1. A retired Wisconsin law enforcement officer.

13          2. A retired federal or out-of-state law enforcement officer.

14          3. This paragraph applies only if all of the following apply:

15          a. The weapon is a firearm that has been shipped or transported in interstate  
16 or foreign commerce and is of the type described in a valid identification card  
17 described in sub. (3) (b) 1. or 2. (intro.) or (c) 1. or 2. (intro.) that was issued to the  
18 retired officer within the preceding 12 months or a valid certification described in  
19 sub. (3) (b) 2. b. or (c) 2. b. that was issued to the retired officer within the preceding  
20 12 months.

21          b. Within the preceding 12 months, the retired officer met the standards of the  
22 state in which he or she resides for training and qualification for active duty law  
23 enforcement officers to carry firearms.

24          c. The weapon is not a machine gun, as defined in s. 941.27 (1), or a destructive  
25 device.

**BILL**

1 d. A firearm silencer, as defined in s. 941.298 (1), is not attached to the weapon.

2 e. The retired officer is not under the influence of an intoxicant.

3 f. The retired officer is not prohibited under federal law from possessing a  
4 firearm.

5 **SECTION 27.** 941.23 (3) of the statutes is created to read:

6 941.23 (3) (a) A qualified out-of-state law enforcement officer shall, while  
7 carrying a concealed firearm, also carry an identification card that contains his or  
8 her photograph and that was issued by the law enforcement agency by which he or  
9 she is employed.

10 (b) 1. A retired Wisconsin law enforcement officer who resides in this state  
11 shall, while carrying a concealed firearm, also carry an identification card issued  
12 within the preceding 12 months under s. 175.50 (2) (b).

13 2. A retired Wisconsin law enforcement officer who does not reside in this state  
14 shall, while carrying a concealed firearm, also carry either an identification card  
15 issued within the preceding 12 months under s. 175.50 (2) (b), if the person was a  
16 resident of this state when the card was issued, or both of the following:

17 a. An identification card that was issued by the law enforcement agency that  
18 employed the person as a law enforcement officer immediately before his or her  
19 retirement and that contains his or her photograph.

20 b. A certification issued by the state in which the person resides that indicates  
21 that, within the preceding 12 months, the person was tested or otherwise found by  
22 the state to meet the standards established by the state for training and qualification  
23 for active duty law enforcement officers to carry a firearm of the same type as the  
24 concealed firearm.

**BILL**

1 (c) 1. A retired federal or out-of-state law enforcement officer who resides in  
2 this state shall, while carrying a concealed firearm, also carry an identification card  
3 that was issued within the preceding 12 months by the law enforcement agency that  
4 employed the person as a law enforcement officer immediately before his or her  
5 retirement and that is substantially similar to one issued under s. 175.50 (2) (b).

6 2. A retired federal or out-of-state law enforcement officer who does not reside  
7 in this state shall, while carrying a concealed firearm, also carry either an  
8 identification card that was issued within the preceding 12 months by the law  
9 enforcement agency that employed the person as a law enforcement officer  
10 immediately before his or her retirement and that is substantially similar to one  
11 issued under s. 175.50 (2) (b) or both of the following:

12 a. An identification card that was issued by the law enforcement agency that  
13 employed the person as a law enforcement officer immediately before his or her  
14 retirement and that contains his or her photograph.

15 b. A certification issued by the state in which the person resides that indicates  
16 that, within the preceding 12 months, the person was tested or otherwise found by  
17 the state to meet the standards established by the state for training and qualification  
18 for active duty law enforcement officers to carry a firearm of the same type as the  
19 concealed firearm.

20 **SECTION 28.** 941.237 (3) (cr) of the statutes is created to read:

21 941.237 (3) (cr) A qualified out-of-state law enforcement officer, as defined in  
22 s. 941.23 (1) (d), who is carrying a concealed firearm that has been shipped or  
23 transported in interstate or foreign commerce and to whom s. 941.23 (2) (b) 1. to 3.  
24 applies.

25 **SECTION 29.** 941.237 (3) (L) of the statutes is created to read:

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**BILL**

1           941.237 (3) (L) A retired Wisconsin law enforcement officer, as defined in s.  
2           941.23 (1) (f), or a retired federal or out-of-state law enforcement officer, as defined  
3           in s. 941.23 (1) (e), who is carrying a concealed firearm that has been shipped or  
4           transported in interstate or foreign commerce and to whom s. 941.23 (2) (c) 3. a. to  
5           f. applies.

6           **SECTION 30.** 941.29 (11) of the statutes is created to read:

7           941.29 (11) This section does not apply to any of the following:

8           (a) A person who is employed in this state by a public agency as a law  
9           enforcement officer, who is carrying a concealed firearm that has been shipped or  
10          transported in interstate or foreign commerce, and to whom s. 941.23 (1) (d) 2. to 5.  
11          and (2) (b) 1. to 3. applies.

12          (b) A qualified out-of-state law enforcement officer, as defined in s. 941.23 (1)  
13          (d), who is carrying a concealed firearm that has been shipped or transported in  
14          interstate or foreign commerce and to whom s. 941.23 (2) (b) 1. to 3. applies.

15          (c) A retired Wisconsin law enforcement officer, as defined in s. 941.23 (1) (f),  
16          or a retired federal or out-of-state law enforcement officer, as defined in s. 941.23  
17          (1) (e), who is carrying a concealed firearm that has been shipped or transported in  
18          interstate or foreign commerce and to whom s. 941.23 (2) (c) 3. a. to f. applies.

19          **SECTION 31.** 948.605 (2) (c) of the statutes is created to read:

20          948.605 (2) (c) Paragraph (a) applies to the possession of a firearm by one of  
21          the following persons only if the property on which the person possesses the firearm  
22          is a state or local government property, installation, building, base, or park:

23          1. A person who is employed in this state by a public agency as a law  
24          enforcement officer, who is carrying a concealed firearm that has been shipped or

**BILL**

1 transported in interstate or foreign commerce, and to whom s. 941.23 (1) (d) 2. to 5.  
2 and (2) (b) 1. to 3. applies.

3 2. A qualified out-of-state law enforcement officer, as defined in s. 941.23 (1)  
4 (d), who is carrying a concealed firearm that has been shipped or transported in  
5 interstate or foreign commerce and to whom s. 941.23 (2) (b) 1. to 3. applies.

6 3. A retired Wisconsin law enforcement officer, as defined in s. 941.23 (1) (f),  
7 or a retired federal or out-of-state law enforcement officer, as defined in s. 941.23  
8 (1) (e), who is carrying a concealed firearm that has been shipped or transported in  
9 interstate or foreign commerce and to whom s. 941.23 (2) (c) 3. a. to f. applies.

10 (END)



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In addition, if a retired law enforcement officer has been issued an identification card that authorizes the carrying of a concealed firearm, the retired officer must notify the sheriff for his or her county of residence that he or she has been issued the card. (This requirement does not apply if the retired officer was issued the card by a local law enforcement agency in Wisconsin and resides in the county in which it was issued.) A person who fails to comply with this requirement is subject to a forfeiture of not more than \$200.

2      **INSERT** 17/19

3      **SECTION 4.** 941.23 (4) of the statutes is created to read:

4      941.23 (4) If a retired Wisconsin law enforcement officer has been issued an  
5      identification card under s. 175.50 (2) (b) within the preceding 12 months, or if a  
6      retired federal or out-of-state law enforcement officer who resides in this state has  
7      been issued an identification card that is substantially similar to one issued under  
8      s. 175.50 (2) (b) within the preceding 12 months, the retired officer shall notify the  
9      sheriff for his or her county of residence that he or she has been issued the card. This  
10     subsection does not apply if the retired officer was issued the identification card by  
11     a local law enforcement agency in this state and resides in the county in which the  
12     card was issued.